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MISCELLANY.

THE following is a statement of the work of the Supreme Court of Appeals of Virginia, held at Staunton :

Number of cases on the docket.....	39
Number of final orders.....	28
Number of cases continued, not being ready for hearing....	11
	— 39

The court adjourned to meet at Richmond, Wednesday, November 8, 1899.

EXAMINATION of applicants to practice law took place at Staunton, September 8, 1899, and, out of seventeen to stand the examination, thirteen were successful, of which the following is a list:

W. Douglas Gordon, Richmond, Va. ; S. James Turlington, Fair Oaks, Va. ; E. Carrington Marshall, Markham, Va. ; Hunter Miller, Haywood, Va. ; P. St. J. Wilson, Bremono Bluff, Va. ; Leslie H. Drew, Richmond, Va. ; E. S. Perry, Culpeper, Va. ; Charles P. Jones, Richmond, Va. ; W. B. Colonna, Benns Church, Va. ; William H. Hill, Culpeper, Va. ; Joseph B. Prince, Jr., Courtland, Va. ; B. H. West, Richmond, Va. ; S. O. Bland, Pinnetta, Va.

A MISTAKEN CHALLENGE.—The Irish papers tell us that at the Killarney quarterly sessions the other day a laughable incident occurred. A prisoner was charged with assault, but the solicitor was temporarily absent when his case was called. Judge Shaw, however, decided to proceed with the swearing in of the jury, telling the accused he could challenge any one he objected to. When the sixth juror was called the prisoner, who evidently thought it was time to exercise his prerogative, objected to his serving, whereupon the challenged juror, with a look of contemptuous disgust, called out : “Yerra, Tim, bad cess to ye, what d’ye mane? Shure I’m fur ye!”—*Chicago Legal News*.

THE MEXICAN JUDICIARY.—We copy the following from the *National Corporation Reporter*. One might easily imagine that the writer had the Virginia judiciary in mind, save for the munificence of the salaries mentioned. To a Supreme Court judge in Virginia, who receives but \$3,000, and to a circuit judge for whose judicial labors the sum of \$1,600 is considered an ample annuity, a Mexican judgeship must be regarded as a most remunerative office :

“There is one thing which seems to be universally admitted here, namely, that the judges of this country are terribly underpaid, says a writer in the *Mexican Trade Review*. How some of them live on their slender incomes and maintain the dignity of their positions is a marvel and a mystery. A judge of the Supreme Court only receives \$4,000 per year, one of the first instance only \$3,000, and the minor judges only \$2,400. In our States the position is still worse. The judge of Acayucan, in the State of Veracruz, for instance, receives the miserable pittance of about \$1,800 a year. Other judges in the same State are similarly re-

warded, and the writer, therefore, did not wonder when a well-known lawyer in that State said that there was no "career" for a young man in the profession of the law. It must not be supposed that the salaries of judges in other States are greater than those of the State of Veracruz, for such is not the case.

"The writer is decidedly of opinion that the salaries of the judges throughout the entire Republic should at least be doubled. A cheap judiciary is a most undesirable thing, as most cheap things are. The laborer is worthy of his hire, and the position of a judge should be one which would attract the best talent of the profession. Under present conditions it does not pay lawyers who have any kind of practice to become judges. The system is obviously a bad one; the judges suffer and the public suffers through it.

"It is only fair to the Mexican bench to say that on the whole it discharges its duties in a manner which leaves but little room for complaint. But no one can deny that its efficiency would be greatly increased by the salaries of the judges being augmented, thus making the position one worth striving for by our best legal talent. As it is, our greatest lawyers are at the bar and not on the bench."

JUDGES AND FREE PASSES.—The *Chicago Law Journal* publishes the subjoined copy of a letter by Judge Beeman, of one of the circuit courts of Indiana, to a railroad company which had sent him a free pass over its line. As the *Journal* well says, such delicate attention shown by a railroad company to a member of a jury, in a case to which the company was a party, would certainly disqualify the juror, and if the possession of an "annual" is sufficient cause for challenge of a juror, it should be sufficient for a change of venue, when the holder is a judge.

The letter reads as follows :

"In the return of this railroad pass I am prompted by what I deem to be the duty of a judge. Passes over railroads, given to members of the legislature and judges, are granted for the same purpose, and that purpose is to influence those who accept them. I deem it wrong for a judge to accept a free railroad pass from a company which may become a party to litigation in the court of the judge who accepts said pass. If a farmer would enclose \$100 to a judge and it was accepted, and afterward a lawsuit was instituted by the farmer against a railway company in the court of the judge who had accepted the farmer's hospitality, and the knowledge were brought to the defendant railroad company of the farmer's hospitality and of the judge's acceptance of that hospitality, the railroad company would make haste to take a change of venue from the court on account of the bias of the judge; but upon the other hand, a railroad company places a railroad pass worth to him \$100 per annum in a judge's hands as a mere matter of courtesy, and the judge tries to educate himself to candidly believe that he is not influenced by the acceptance of the same. I have failed to so conclude, and believe that it is as unwise for a judge to accept a railroad pass as it would be for him to accept \$100 from a farmer who expects to be a party to litigation in the judge's court who accepts the money. The trend of events indicates that during the next five years many important lawsuits that will come up for trial before the courts in this judicial district will be determined from a standpoint of public policy, and I do not deem that a judge would be true to his oath and duty to determine questions between railroad corporations and the people while under the smallest obligation to

the corporations. These are among the reasons that have led me to return this day the annual passes I held from railroad companies."

The same journal adds :

"The possession and use of an annual pass by a venireman would certainly disqualify him for service on a jury, in a trial wherein the railroad company issuing the pass was defendant. If the acceptance of such courtesy constitutes a disqualification for jury service, why should it not have an equally prejudicial potency when the acceptor is a judge? If such a favor may beget a sense of obligation in the mind of a juror, might it not excite a feeling of gratitude in the breast of a judge—that gratitude which finds its fullness in observing the law of recompense? Why are these passes given to judges, legislators, and other public officials? The question suggests its own answer—not for services past, but for favors hoped for. To the acceptance and use of these annuals can be rightfully attributed much of that judicial strabismus which unfortunately afflicts the bench more and more each succeeding year."

THE TORRENS SYSTEM.—On June 29, 1897, Senator McMillan introduced a bill (S. 2296) to increase the wealth of this community by many millions of dollars, by conferring upon it the Torrens system of land transfer, the advantages of which have been so admirably set forth by Mr. Henry Randall Webb in the *Post* of July 24 last.

The attorney for the district, to whom that bill was referred by the commissioners, reported that there were "many good features in the proposed legislation affecting the easy and inexpensive transfer of real estate, the attainment of which end is quite desirable." He added that if the good features alone should be embodied in a bill drawn to meet local conditions the system would be a benefit to the community, but that he was unable to advise "that the bill in its present shape" should receive the favorable recommendation of the commissioners.

With all respect to the accomplished lawyer who at that time was the official adviser of our commissioners, it must be said that such vague and indiscriminating criticism of the bill in question is most unsatisfactory. Amendments to such a measure are always in order, but they should be specific and self-supported by argument. The language of the attorney's report in this case means nothing more than this: That the proposed bill is revolutionary, and, though similar bills have proved a great blessing in other jurisdictions, there is some doubt how it will work here, unless certain features, not mentioned, be eliminated.

Since Mr. Webb has had the public spirit to agitate this question, it is to be hoped, and if our people will co-operate with him, it is to be expected, that Senator McMillan will press this bill to a vote, assuming, as he may well be justified in doing, that the law department of our local government has been unable to find any objections to it which may be specifically set forth. Objections to it, of course, exist. Under our system of registering deeds there is much uncertainty, and title insurance companies, perceiving the state of affairs, have appeared upon the scene offering to protect purchasers of titles, for a consideration, against loss. The Torrens system makes it the duty of the government, for a trifling fee, not only to do this, but to guarantee to the purchaser the possession of the land.

Naturally, abstract of title companies have resisted such legislation with great

earnestness. They fought it in Illinois, but public opinion was too strong to enable them to resist this admirable development of our institutions. The law was passed, to become operative (and only within Cook county) when approved by a popular vote. The people carried it through, and it was declared unconstitutional by the courts. It was passed again, with modifications, in 1897, and again judicially contested, but the second time in vain. It is safe to say that the people of Chicago will never be willing to return to the old system. "In spite of opposition and in spite of the conservatism of men," says the editor of the *American Law Review*, "the new system of title registration is likely to be generally adopted in this country within a few years."

In Chicago the system is not compulsory. In this respect the Illinois act resembles the English Land Transfer Act of 1875. The English act has been amended, however, with a view to making registration compulsory, and an order in council was issued in July of last year making it compulsory in the county of London, which contains about five millions of people. It is very significant that when a motion was made a few months afterward in the House of Commons to disapprove of this order, it was defeated without a division. What has been accomplished in such staid communities as England and Massachusetts will surely be adopted at this legislative experiment station.

An appreciation of the Torrens system cannot be expected until the difficulties are understood of our present method of registering deeds and searching titles. Let us see what such a search means in Washington.

The recorder of deeds states, in answer to an inquiry, that the number of record volumes in his charge, from 1792 to 1873, is 700, of various sizes. Since 1873 he has filled 1,736 volumes with records, each volume having 500 pages. For the last ten years, he adds, about one hundred such volumes have been required each year. To aid in searching this immense library of manuscript books, we have ninety-seven general indexes, of which we have completed three every year during the last decade. Necessarily, under such a system, the expense and labor increase, as Mr. Libby, the president of the Maine Bar Association, points out, from year to year; and in a city like Washington, where realty has become very valuable, the time and labor requisite for such a search becomes a serious burden to the owners of property who wish either to sell it or to use it as security for loans. We have here a large number of such owners, and Mr. Webb has well described the onerous and useless charges to which they are put. Will not champions of the McMillan bill come forward and put an end to this grievous waste of time and money?—*E. I. Renick, in Washington Post.*

A COURT DAY IN THE VIRGINIA MOUNTAINS.—Strolling a short time since on a highway in the mountains of Virginia, the writer gradually came to realize that an event of local importance was set for the day. A limited number of vehicles of varying styles and grades of dilapidation were encountered, but substantially the entire male population of the region seemed moving on horse and muleback. Informed that the gala occasion was "court day," professional instinct led to the joining of a procession, the most distinctive feature of which, as its converging strands braided into a unit a short distance from the courthouse, was a colored citizen who bestrode his mule, with an umbrella of shreds without patches outspread, presumably to guard against sunburn. Arriving at the temple of justice,

it was striking to a northerner to notice the array of saddled horses and mules hitched to every available tree and fence crevice. In the north we drive or we ride wheels; throughout the south ancient conditions still survive sufficiently to preserve the art of equestrianism as a general one. May it never fall into disuse there and would that it might be generally readopted here.

Entering the courthouse one was struck by the disproportion of the spittoon cubic contents to stove cubic contents. The forum had two stoves of moderate size and a dozen spittoons of Brobdingnagian pattern. Actually, the spittoon capacity seemed equal to or in excess of the stove capacity. The weather being warm, no opportunity was afforded for observing whether such capacities had been wisely adjusted according to the laws of supply and demand and practical necessity. A cynical layman suggested that, considering the tobacco juice stains on the floor, the spittoons must be sacred bric-a-brac. But there was cited in response a reply of Mr. Beecher in his youthful days to old foggy deacons remonstrating against the jokes he occasionally let slip in the pulpit, that they ought to give him credit for the funny thing he thought of and did not utter. From observations we concluded that the spittoon might fairly have said—after us, or, without us, the tobacco deluge.

Citizens, white and colored, not, according to the French phrase, without breeches, but often without coats, or collars, thronged the space surrounding the bar. The "bar" was a small elevated enclosure in the center of the room, which recalled the open work cages of the pounds in our northern cities in which unclaimed pets and vagrants are lowered to a canine Lethe.

The judge entered and ascended the bench and immediately our mood of wanton ribaldry subsided. A keen-eyed, eagle-faced man, in five minutes demonstrated his judicial scholarship and efficiency. The session was of a county court and a substantial amount of probate and general *ex parte* business was dispatched in a manner suggesting at once the conscientious magistrate and the sympathetic elder brother. Then ensued a forensic proceeding, which the writer congratulates himself upon not having missed. The controversy was not in the least romantic or heroic. The local law requires applications for retail excise licenses to be made to judicial officers in the first instance. The contention was between two parties, each of abundant resources, one asking for, and the other opposing, upon personal and *quasi*-public grounds, the grant of such a license. The judicial question involved was purely one of discretion, but the circumstances of the parties enabled them to retain eminent counsel. For several hours the wordy contest raged, three able men on each side, with an acute, dispassionate mind as arbiter. The opposing advocates, cramped together in their pound cages, were courteous and fraternal, without yielding any substantial point. They were all deferential to the judge as embodying a civil institution. He preserved judicial dignity and made his rulings with decent conventionality of manner, it being obvious withal that he was the personal and professional intimate of all the lawyers before him. In the end he decided the case as the writer would have done, which, according to sacred custom, entitles the writer to rank him as a great and good judge.

In attending this trial there was recalled the sensation once experienced in unexpectedly running across an American flag flying over a hotel in Switzerland. The realization that the common law in its substantial integrity prevailed in the wilds of the Virginia mountains was like getting home. Believing, as we do

that the policy of the common law under which England and America have grown up, has had much to do with their supremacy in civilization, it is highly satisfactory to realize that the spirit of the common law dominates not merely the centers but the outposts of American life.—*New York Law Journal*.

QUESTIONS PROPOUNDED BY THE SUPREME COURT OF APPEALS OF VIRGINIA TO
APPLICANTS FOR ADMISSION TO THE BAR, SEPTEMBER 8, 1899.

1. How may license to practice law in the courts of this State be obtained? State fully the various steps required.

2. What is municipal law? What constitutes the municipal law in force in this commonwealth; from what source derived, and where found?

3. What is a corporation? How are private corporations created in this State; how dissolved?

4. Give five of the most important rules for the interpretation and construction of written instruments. State in what cases parol evidence is admissible to contradict the terms of a writing.

5. B takes out a policy of insurance payable to himself on the life of A, who owes him, to protect himself against loss, and pays the premiums on the policy until A's death. The whole of the debt and premiums remain unpaid to B. What interest, if any, has the personal representative of A in the proceeds of the policy? Give reasons for your answer.

6. What contracts of an infant are valid, what voidable, and what void?

7. State doctrine as to validity of a common law marriage in Virginia, in view of the statutory directions as to how marriage shall be celebrated?

8. On December 10, 1893, A contracts verbally with B to work on his farm for the year commencing January 1, 1894, and ending December 31, 1894, for fifteen dollars per month. June 1, 1894, B pays A his wages to date and discharges him without good cause. What redress, if any, has A against B? Give reasons for your conclusion.

9. A husband, wishing to make provision for his wife and child, devises his real estate to his wife to be managed and disposed of by her at her pleasure, provided she *remained* his widow, but, should she marry again, then to go to his daughter in fee. The child dies and then the testator, leaving surviving him his wife and two brothers. The widow marries again. What estate did she take in said real estate under the devise, and what effect, if any, did the second marriage have on her estate?

10. B, the payee of a note negotiable under the laws of the State of Maryland, endorses and delivers it to D, in the city of Baltimore, Md. State doctrine as to right of D to sue B and hold him to the liability of an endorser of negotiable paper in the county of Orange, Virginia, where B resides, said note being non-negotiable paper under the laws of the State of Virginia.

11. State the circumstances necessary to support an action for malicious prosecution?

12. What is the mode of executing process on a defendant in Virginia generally, and how are causes matured for hearing as to non-resident defendants?

13. What are the cases where, in actions of ejectment, defendant may set up in a court of law in Virginia an adverse equitable title, and what step must he first take before he can do this?

14. What is the period in Virginia within which action may be brought upon a written contract not under seal, a verbal contract, a retail store account, and a tort respectively?

15. Explain the common counts at common law, and also in Virginia, in an action of *assumpsit*; and what may and may not be proved under the general issue of *non assumpsit*?

16. State the several cases in which an attachment in an action at law may be obtained; and how are attachment statutes construed, and why?

17. What are the incidents of an estate in fee simple; and state what were the mischiefs of estates tail; and how first obviated?

18. State the doctrine in England, and also in Virginia, as to trusts declared (a) for vague and indefinite objects generally, and (b) for vague and indefinite charities?

19. To what extent would the dower right of A be affected where her husband dies seized of land worth \$4,000, owing unsecured debts amounting to \$2,000 and a deed of trust secured on said real estate for \$3,000, she having united in said deed of trust?

20. State doctrine in Virginia as to effect where, upon devise to two persons jointly, one of them dies before the testator?

21. State grounds for divorce *a vinculo* in Virginia?

22. A, infant son of B, by negligent use of cigarettes, sets fire to C's wheat-stacks, which are burned, and a loss of \$1,000 results. After fire, B tells C he will pay him \$500 for the damage. C brings suit against B and lays his damage at \$2,000. What can he recover? Give reasons for opinion.

23. What are the requirements of the Virginia statute relative to the execution of wills, and in what manner in Virginia must signature to will be affixed?

24. Give definition of emblements, and state essential requisites therefor?

25. Doctrine in Virginia as to emblements in respect to all parties concerned when C, tenant by curtesy, leases half of the land to D for ten years from December 1, 1880, and dies April 15, 1884?

26. State difference between curtesy and dower; and doctrine at common law and in Virginia as to effect of jointure as a bar to dower?

27. State doctrine at common law, and also in Virginia, as to recovery in damages and measure thereof, in suit: 1. Where A is killed by wrongful act of B. 2. Where A is injured by wrongful act of B so that he loses an arm.

28. In what manner may a judicial lien be obtained upon the lands, and also upon the chattels of a debtor; from what time would such lien be effective (a) as between creditor and debtor; (b) as to other creditors who might be proceeding in like manner, and (c) as to purchasers?

29. State the reason of the rule which requires a plea amounting to general issue to be so pleaded; and in what cases and in what manner may defendant be compelled to disclose grounds of his defence when he pleads the general issue?

30. What is equity as understood in England and in the United states, and difference between courts of equity and common law courts?

31. What is direct evidence; what circumstantial; and what are the objections to hearsay evidence?

32. Upon what grounds are entries made by third parties admitted as evidence; and what is the doctrine as to admitting party's own entries as evidence for and against him?

33. What is latent ambiguity; what patent; and when can parol evidence be introduced in case of ambiguity?

34. Where one of the original parties to a contract is dead, insane or incompetent to testify, by reason of infamy or other legal cause, in what cases can the other party testify in Virginia?

35. What are the classes of declarations which, though usually treated as under head of hearsay, are really original evidence?

36. What is a bill of review; for what causes may it be filed; what must be stated in it; and what must be its prayer?

37. What is the doctrine where vendor of real estate comes into a court of equity and is not ready to make title?

38. Why is it necessary to distinguish between an original promise and a guaranty? Mention some of the circumstances under which guarantor is discharged.

39. Doctrine as to usurious nature of contract where A sells to B his farm for \$6,000 upon these terms: \$3,000 cash, and balance in two years, evidenced by bond bearing interest at eight per cent. per annum, and give reason for your opinion?

40. What is *donatio mortis causa*, and what circumstances are necessary to the validity of the same?

41. What is a bailment, and what are the three general classes thereof?

42. Doctrine as to right of railroad to refuse transportation of passenger.

43. At common law, what rights had a debtor of preferring his creditors, and how is this in equity?

44. State distinction between crimes and civil injuries; and as to the power and measure of punishment for crime.

45. Who is principal in first degree, and what is difference between principal in second degree and accessory before the fact?

46. Explain the nature of a presentment, information and indictment respectively.

47. State several kinds of felonious homicide, and give definition of murder in first degree in Virginia.

48. State grounds for new trials in criminal cases, and to whom allowed.